

11 JUN 2007



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Kenneth F. Florek  
Hedman & Costigan  
1185 Avenue of the Americas  
New York NY 10036-2646

In re Application of :  
TVOUA et al. :  
Application No.: 10/561,429 : DECISION  
PCT No.: PCT/IL2005/001117 :  
Int. Filing Date: 26 October 2005 :  
Priority Date: 27 October 2004 :  
Attorney Docket No.: 3521/3 :  
For: PERSONALLY ADJUSTABLE FOOTWEAR :

This decision is in response to applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371", which has properly been treated as a petition under 37 CFR 1.181, filed in the United States Patent and Trademark Office (USPTO) on 23 February 2007. No petition fee is required.

**BACKGROUND**

On 26 October 2005, applicants filed international application PCT/IL2005/001117, which designated the United States and claimed a priority date of 27 October 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 May 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 April 2007.

On 12 August 2005, applicants filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an assertion of small entity status.

On 18 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 23 February 2007, applicants filed the instant "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371", which has properly been treated as a petition under 37 CFR 1.181". The petition was accompanied by, *inter alia*, a copy of a declaration of inventors executed on 06 December 2005.

### **DISCUSSION**

Applicants have provided sufficient evidence to establish that on 19 December 2005 applicants filed a declaration of inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 19 December 2005 and which itemizes a "Declaration" and identifies the above-captioned docket number, applicant, and title. Further, practitioner states that the copy of the declaration filed 23 February 2007 and executed on 06 December 2005 is a copy of the declaration originally filed 19 December 2005. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 23 February 2007 and executed on 06 December 2005 may properly be accepted as originally received in the USPTO on 19 December 2005. The NOTIFICATION OF MISSING REQUIREMENTS mailed 18 January 2007 is hereby vacated.

The declaration filed 19 December 2005 is in compliance with 37 CFR 1.497(a)-(b).

### **CONCLUSION**

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF MISSING REQUIREMENTS mailed 18 January 2007 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

  
Daniel Stemmer

Legal Examiner

PCT Legal Affairs

Office of Patent Cooperation Treaty

Legal Administration

Telephone: (571) 272-3301

Facsimile: (571) 273-0459